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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROSALINA VILLEGAS SANCHEZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74221

Agency No. A95-313-431

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 9, 2006^{**}

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Rosalina Villegas Sanchez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") decision summarily affirming an immigration judge's ("IJ") pretermission of Villegas Sanchez's

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

application for cancellation of removal. To the degree we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of constitutional violations. *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the Department of Homeland Security's discretionary decision to place Villegas Sanchez in removal proceedings instead of granting her deferred action. *See* 8 U.S.C. § 1252(g) (“ . . . no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.”); *see also Mada-Luna v. Fitzpatrick*, 813 F.2d 1006, 1011 n.4 (9th Cir. 1987) (explaining the court has no power to review the denial of a deferred action status petition).

Villegas Sanchez's contention that she suffered ineffective assistance of counsel fails because she did not demonstrate prejudice. *See Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 826 (9th Cir. 2003).

Villegas Sanchez's contention that the BIA's summary affirmance without opinion is a violation of due process is foreclosed by *Falcon-Carriche v. Ashcroft*, 350 F.3d 845, 849-52 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.